

1 Paul Alexander  
2 alexanderp@howrey.com

2 **HOWREY LLP**

3 1950 University Avenue  
4 East Palo Alto, CA 94303  
5 650.798.3500  
6 650.798.3600 (fax)

7 Emily Maxwell (Bar. No. 185646)  
8 maxwelle@howrey.com

9 **HOWREY LLP**

10 525 Market Street, Suite 3600  
11 San Francisco, CA 94105  
12 415-848-4947  
13 415-848-4999 (fax)

14 Eugene A. Spector  
espector@srkw-law.com

15 Jeffrey J. Corrigan  
jcorrigan@srkw-law.com  
16 Theodore M. Lieverman  
tlierman@srkw-law.com

17 Jay S. Cohen  
jcohen@srkw-law.com

18 Jonathan M. Jagher  
jjagher@srkw-law.com

19 **SPECTOR ROSEMAN KODROFF & WILLIS, P.C.**

20 1818 Market Street, Suite 2500  
21 Philadelphia, PA 19103  
22 215-496-0300  
23 215-496-6611 (fax)

24 [ADDITIONAL COUNSEL ON SIGNATURE PAGE]

25 *Attorneys for Plaintiff, on behalf of himself and others similarly situated*

26 UNITED STATES DISTRICT COURT  
27 NORTHERN DISTRICT OF CALIFORNIA

28 ANDREA RESNICK, GARY BUNKER, JOHN ) Case No. CV-09-0002 (MEJ)  
29 HALEY, AMY LATHAM, ERIC ROSLANSKY, )  
30 and KEVIN SIMPSON, on behalf of themselves )  
31 and others similarly situated, ) **NOTICE OF RELATED CASE PURSUANT**  
32 Plaintiffs, ) **TO CIVIL L.R. 3-12 TO BE FILED IN CASE**  
33 v. ) **NO. CV-09-0002 MEJ; ADMINISTRATIVE**  
34 WALMART.COM USA LLC, WAL-MART ) **MOTION TO CONSIDER WHETHER**  
35 STORES, INC., and NETFLIX, INC., ) **CASES SHOULD BE RELATED,**  
36 Defendants. ) **PURSUANT TO CIVIL L.R. 7-11**  
37 )  
38 )

1 Plaintiff Michael O'Connor on behalf of himself and others similarly situated (hereinafter  
2 "Plaintiff") hereby respectfully submits this Notice of Related Case, Pursuant to Civil L.R. 3-12 and  
3 the required Administrative Motion to Consider Whether Cases Should be Related, Pursuant to Civil  
4 L. R. 7-11.

5 **I. APPLICABLE STANDARD UNDER CIVIL L.R. 3-12**

6 Under Civil Local Rule 3-12, an "action is related to another when: (1) the actions concern  
7 substantially the same parties, property, transaction or event, and (2) it appears likely that there will be  
8 an unduly burdensome duplication of labor and expense or conflicting results if the cases are  
9 conducted before different Judges." Civil L.R. 3-12(a).

10 Whenever a party knows or believes that an action may be related to an action which is or was  
11 pending in the Northern District, said party "must promptly file in the earliest-filed case an  
12 Administrative Motion to Consider Whether Cases Should be Related, pursuant to Civil L.R. 7-11."<sup>1</sup>  
13 Civil L.R. 3-12(b). That motion must include: "(1) The title and case number of each apparently  
14 related case; (2) A brief statement of the relationship of the actions according to the criteria set forth in  
15 Civil L.R. 3-12(a)."

16 **II. O'CONNOR AND RESNICK ARE RELATED CASES.**

17 The *Resnick* litigation was filed in this Court on January 2, 2009. The *O'Connor* litigation was  
18 filed on January 9, 2009 and was assigned Case No. CV-09-0096 (MEJ). These two cases involve the  
19 exact same transactions and events, the identical defendants, the identical allegations and causes of  
20 action, and the same proposed class of plaintiffs. Accordingly, there will be unduly burdensome  
21 duplication of labor and expense and there will be a risk of conflicting results if these cases are  
22 conducted before different Judges.

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26 <sup>1</sup> "In addition to complying with Civil L.R. 7-11, a copy of the motion, together with proof of service  
27 pursuant to Civil L.R. 5-6, must be served on all known parties to each apparently related action. A  
28 Chambers copy of the motion must be lodged with the assigned Judge in each apparently related case  
under Civil L.R. 5-1(b)." Civil L.R. 3-12(b).



1 Gary E. Mason  
2 THE MASON LAW FIRM, LLP  
3 1225 19th Street Northwest  
4 Suite 500  
5 Washington, DC 20036  
6 202-429-2290  
7 202-429-2294 (fax)

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11 *Attorneys for Plaintiff and others similarly situated*  
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**CERTIFICATE OF SERVICE**

The undersigned declares as follows:

I am a citizen of the United States and employed in San Mateo County, State of California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1950 University Avenue, 4<sup>th</sup> Floor, East Palo Alto, California 94303. On the date set forth below, I served a copy of the following document:

**NOTICE OF RELATED CASE PURUSANT TO CIVIL L.R. 3-12 TO BE FILED  
IN CASE NO. CV-09-0002 MEJ; ADMINISTRATIVE MOTION TO CONSIDER  
WHETHER CASES SHOULD BE RELATED, PURSUANT TO CIVIL L.R. 7-11**

on the interested following parties in the subject action as indicated below:

Jonathan M. Jacobson  
[jjacobson@wsgr.com](mailto:jjacobson@wsgr.com)  
Wilson Sonsini Goodrich & Rosati  
1301 Avenue of the Americas  
40th Floor  
New York, NY 10019

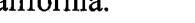
Sara Ciarelli Walsh  
sciarelli@wsgr.com  
Wilson Sonsini Goodrich & Rosati  
1301 Avenue of the Americas  
40th Floor  
New York, NY 10019

(E-MAIL) I caused the above listed document to be served on the following e-mail addresses:  
jjacobson@wsgr.com and sciarelli@wsgr.com

I declare under the penalty of perjury under the laws of the State of California and the United States that the above is true and correct.

Executed on January 9, 2009, at East Palo Alto, California.

Eric J. Trostad  
(Type or print name)

to, California.  
  
(Signature)